

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DANIEL 'LA DEERING,

Plaintiff,

v.

LOCKHEED MARTIN CORPORATION,

Defendant.

Civil Action No. 0:20-cv-1534 (DSD/BRT)

**DECLARATION OF BENJAMIN K. JACOBS IN SUPPORT OF LOCKHEED
MARTIN'S EMERGENCY MOTION FOR
SANCTION OF DISMISSAL WITH PREJUDICE**

Benjamin K. Jacobs, pursuant to 28 U.S.C. § 1746, submits this Declaration in Support of Lockheed Martin's Emergency Motion for Sanction of Dismissal With Prejudice and hereby declares under the penalty of perjury as follows:

1. I represent Defendant Lockheed Martin Corporation ("Lockheed Martin" or "Defendant") in this matter.

2. Attached hereto as **Exhibit A** is a true and correct copy of the cited portion of Defendants' Requests to Plaintiff for Production of Documents, served in this matter on November 23, 2020.

3. Attached hereto as **Exhibit B** is a true and correct copy of the cited portion of Defendants' Interrogatories to Plaintiff, Set I, served in this matter on November 23, 2020.

4. Attached hereto as **Exhibit C** is a true and correct copy of the cited portion of Plaintiff's Response to Defendants' Request for Production of Documents - Set I, served on December 23, 2020.

5. Attached hereto as **Exhibit D** is a true and correct copy of the cited portion of Plaintiff's Answers to Defendant's Interrogatories - Set I, served on December 23, 2020.

6. Attached hereto as **Exhibit E** is a true and correct copy of the cited portion of the Appendix to Plaintiff's Answers to Defendant's Interrogatories, served on December 23, 2020.

7. Attached hereto as **Exhibit F** is a true and correct copy of the cited excerpts of Deering's deposition transcript. The deposition was taken on November 1, 2021.

8. Attached hereto as **Exhibit G** is a true and correct copy of DD00003555-58, which appears to be an Anaplan Offer Letter signed by Plaintiff. This document was identified as one of Plaintiff's trial exhibits on June 5, 2023 and produced by Plaintiff for the first time on June 7, 2023.¹

9. Attached hereto as **Exhibit H** is a true and correct copy of the cited portion of Plaintiff's Supplemental Rule 26(a)(1) Disclosures (Amended III), served on May 25, 2023.

10. Attached hereto as **Exhibit I** is a true and correct copy of DD00003565-3607, which appears to be Plaintiff's 2021 Individual Taxes. This document was identified as

¹ The document appears to have been produced out of order, but Lockheed Martin is attaching it exactly as produced.

one of Plaintiff's trial exhibits on June 5, 2023 and produced by Plaintiff for the first time on June 7, 2023.²

11. Attached hereto as **Exhibit J** is a true and correct copy of DD00003694-3698, which appear to be Plaintiff's 2022 W-2 and other 2022 compensation related information. This document was not identified on Plaintiff's June 5, 2023 Exhibit List and was not identified or produced until June 7, 2023.

12. Attached hereto as **Exhibit K** is a true and correct copy of the Exhibit List Plaintiff submitted to Lockheed Martin's counsel in this matter on June 5, 2023.

13. Attached hereto as **Exhibit L** is a true and correct copy of "Plaintiff's Proposed Exhibits and Updated Exhibit List," which Plaintiff submitted to Lockheed Martin's counsel in this matter on June 7, 2023 without explanation or identification of any added exhibit.

14. Attached hereto as **Exhibit M** is a true and correct copy of an email from Kaarin Schaffer Nelson to Lockheed Martin's counsel, dated June 9, 2023.

15. Attached hereto as **Exhibit N** is a true and correct copy of the cited portion of Plaintiff's Supplemental Rule 26(a)(1) Disclosures (Amended IV) and the mitigation summary, served in this matter on June 11, 2023.

16. Attached hereto as **Exhibit O** is a true and correct copy of an email from Kaarin Schaffer Nelson to Lockheed Martin's counsel, dated June 11, 2023.

² Although several of the exhibits to this Declaration were produced by Plaintiff with a "CONFIDENTIAL" designation, Plaintiff has confirmed that the documents may be filed publicly.

17. When Plaintiff sat for her deposition on November 1, 2021, Plaintiff had last produced documents related to her employment on August 20, 2021 (and a small supplemental production on October 29, 2021). Those documents showed that Plaintiff was working at nVent with annual total compensation (i.e., salary, bonus, and equity) in the mid \$200,000's. The supplemental production included no documents relating to Anaplan.

18. Plaintiff also made supplemental document productions on November 12 and 15, 2021, which included no information relating to her Anaplan job or compensation. The productions did contain, however, more than 1,700 pages of largely irrelevant material, including articles of historical claims and government contract claims against Lockheed Martin from decades ago.

19. Plaintiff made a document production on March 11, 2022, which included no information relating to her Anaplan job or compensation.

20. Based on Plaintiff's sworn testimony, discovery responses, and document productions—Lockheed Martin proceeded in this litigation under the impression that Plaintiff was working at nVent at an annual compensation rate (i.e., "all in" compensation) in the mid-\$200,000's.

21. The parties conducted settlement conferences in this matter on January 19, 2022, and November 8, 2022—both of which occurred after Plaintiff started her new job at Anaplan. At these conferences, the negotiations before Magistrate Judge Thorson proceeded on the assumption that Plaintiff was still employed at nVent at approximately the same compensation level.

22. The information reflected in Plaintiff's 2022 W-2 was unavailable to Lockheed Martin until it discovered the accurate information in Plaintiff's proposed trial exhibits.

23. To date, Plaintiff has still produced no documents related to her securing of the job with Anaplan (beyond the offer letter) or her current (i.e., 2023) salary, benefits, and incentive compensation at Anaplan.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 12, 2023.



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